

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Document #

34

ELAINE L. CHAO, Secretary of Labor,
U.S. Department of Labor

Plaintiff

-v-

GOTHAM REGISTRY, INC.

Defendant

USCA NO. 06-2432-cv

SDNY NO. 92-6381

JUDGE: Stanton

DATE: August 15, 2006

INDEX TO THE RECORD ON APPEAL

PREPARED BY (NAME): Maria Van Buren, Esq.

FIRM: U.S. Department of Labor, Office of the Solicitor

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* SEE ATTACHED LIST, ALL CIRCLED DOCUMENTS ARE INCLUDED

(☒) Original Record

(☐) Supplemental Record

The record in the above entitled case was indexed to the U.S.C.A for the
Second Circuit on the 15th Day of August, 2006.

APPEAL, CLOSED, STANDARD

U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:92-cv-06381-LLS

Chao v. Gotham Registry, et al
Assigned to: Judge Louis L. Stanton
Demand: \$0
Related Case: 1:05-cv-06242-LLS
Cause: 28:1331 Fed. Question: Other

Date Filed: 08/25/1992
Jury Demand: None
Nature of Suit: 710 Labor: Fair Standards
Jurisdiction: U.S. Government Plaintiff

| Date Filed | # | Docket Text |
|------------|----|---|
| 08/25/1992 | 1 | COMPLAINT filed; Summons issued and Notice pursuant to 28 U.S.C. 636(c); (jl) (Entered: 08/25/1992) |
| 08/25/1992 | 2 | Case information Statement Addendum filed. Purs. to statement, it is suggested that the case be classified as Standard. (jl) (Entered: 08/25/1992) |
| 09/28/1992 | 3 | ANSWER to Complaint by Gotham Registry, Gotham Per Diem, Inc (Attorney Michele A. Pincus), ; Firm of: LA&F by attorney Michele A. Pincus for defendants. [Orig. to chambers] (ar) (Entered: 09/28/1992) |
| 09/28/1992 | 4 | Rule 9 certificate filed by Gotham Registry, Gotham Per Diem, Inc. [Orig. to chambers] (ar) (Entered: 09/28/1992) |
| 10/07/1992 | 5 | ORDER, set pretrial conference purs. to rule 16b for 3:00 10/23/92 (signed by Judge Louis L. Stanton); Copies mailed (ar) (Entered: 10/08/1992) |
| 10/20/1992 | 6 | NOTICE OF MOTION by Gotham Registry, Gotham Per Diem, Inc for an order granting defts' motion to admit Barry A. Furman and Mark S. Halpern to appear before this court pro hac vice , Return date 10/30/92. David Lazer's affdvt, Barry A. Furman's affdvt and Mark S. Halpern's affdvt are attached. [orig. to chambers] (ar) (Entered: 10/20/1992) |
| 10/23/1992 | | Pre-trial conference held. Status conf set for 12/18/92 at 2:20pm. Submitted by Naomi Brown. (ar) (Entered: 10/27/1992) |
| 10/23/1992 | | Status conference set at 2:20 12/18/92 (ar) (Entered: 10/27/1992) |
| 11/19/1992 | 7 | ACKNOWLEDGEMENT OF SERVICE as to Gotham Registry, Gotham Per Diem, Inc by Caroline M. Barrett on 9/1/92 Answer due on 9/21/92 for Gotham Per Diem, Inc, for Gotham Registry (ar) (Entered: 11/19/1992) |
| 12/18/1992 | | Pre-trial conference held by LLS; Status Conference set for 5-21-93 at 2:20 p.m. (mk) (Entered: 12/21/1992) |
| 12/22/1992 | 8 | Order designating case to a Mag. Judge. Purs. to the Civil Justice Expense and Delay Reduction Plan, this case has been determined to be Standard. Case is designated to Magistrate Judge Katz. (signed by Judge Louis L. Stanton) (mk) (Entered: 12/22/1992) |
| 01/22/1993 | | Memo endorsed on motion; granting [6-1] motion for an order granting defts' motion to admit Barry A. Furman and Mark S. Halpern to appear before this court pro hac vice (signed by Judge Louis L. Stanton); Copies mailed. (mk) (Entered: 01/22/1993) |
| 05/21/1993 | | Pre-trial conference held by LLS (mk) (Entered: 05/24/1993) |
| 05/24/1993 | 9 | ORDER, set pretrial order due for 11/15/93 , set final pretrial conference for 2:20 11/19/93 (signed by Judge Louis L. Stanton); Copies mailed Chambers (mk) (Entered: 05/27/1993) |
| 10/07/1993 | 10 | ORDER, to vacate a Order dated May 21, 1993, and a final pre-trial conference will be held. at 10:00 on 2/25/94 (signed by Judge Louis L. Stanton); Copies mailed (dd) (Entered: 10/18/1993) |
| 03/09/1994 | 11 | STIPULATION and SCHEDULING ORDER, Deft Gotham Per Diem, Inc. is to submit to Pltff completed computations of overtime backwages due deft's nurses, includ. a listing of each nurse & the amt. due him or her, for the period of 6-28-93 through 3-4-94, etc..., Deft Gotham Registry Inc. is to sign the Final Consent Judgment by 5-2-94 (signed by Judge Louis L. Stanton). (mk) (Entered: 03/10/1994) |
| 03/09/1994 | 12 | PARTIAL CONSENT JUDGMENT # 94,0491 for Lynn Martin against Gotham Per Diem, Inc... deft Gotham Per Diem, Inc. that backwage compensation is due certain employees in the amt. of \$8,000... SO ORDERED, STANTON, J.; EOD: 3-10-94 (Orig. to Cashiers) (signed by Judge Louis L. Stanton) (mk) (Entered: 03/10/1994) |
| 04/21/1994 | 13 | SUPPLEMENTAL ORDER, As set forth in paragraph II of the Partial Consent Jgmt, deft Gotham Per Diem, Inc. shall pay immediately the amt. of \$8,000.00 as specified on Schedule A attached hereto & made a part hereof (signed by Judge Louis L. Stanton); Copies mailed (mk) (Entered: 04/28/1994) |
| 06/07/1994 | 14 | FINAL CONSENT JUDGMENT # 94,1161 for Lynn Martin against Gotham Registry... ORDERED, ADJUDGED & DECREED that unpaid overtime compensation is due certain employees in the total amt. of \$303,000, according to Schedule A, attached hereto & made a part hereof; Those individuals to whom distributions were not made shall be deposited with the Clerk of this Court who shall forthwith deposit such money with the Treasurer of the U.S. purs. to 28 USC 2041 & 2042... SO ORDERED, STANTON, J.; EOD: 6/8/94 (signed by Judge Louis L. Stanton) (Orig. to Cashiers) (mk) (Entered: 06/08/1994) |
| 06/07/1994 | | Case closed (mk) (Entered: 06/08/1994) |
| 10/22/2004 | | Minute Entry for proceedings held before Judge Louis L. Stanton : Interim Pretrial Conference held on 10/22/2004. Judge's Decision: Pre-Motion Conference held. Plaintiff may make motion. (jeh,) (Entered: 10/26/2004) |
| 11/17/2004 | 15 | MOTION (FILED ON SERVICE DATE) for Steven Kapustin to Appear Pro Hac Vice. (jco,) (Entered: 11/30/2004) |

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| 11/23/2004 | 16 | AFFIDAVIT of Steven Kapustin in Support re: [15] MOTION (FILED ON SERVICE DATE) for Steven Kapustin to Appear Pro Hac Vice. (jco,) (Entered: 11/30/2004) |
| 12/29/2004 | 17 | NOTICE of Petition for Adjudication of Civil Contempt. Document filed by Elaine L. Chao. (jco,) (Entered: 01/04/2005) |
| 01/06/2005 | | Memo Endorsement granting [15] Motion to Appear Pro Hac Vice of Steven Kapustin on behalf of dfts to argue or try in whole or in part as counsel, dft's opposition to the motion of plaintiff to adjudicate dft Gotham Registry and its officer Caroline Barrett. (Signed by Judge Louis L. Stanton on 1/4/05) (dle,) Modified on 1/10/2005 (dle,). (Entered: 01/10/2005) |
| 01/06/2005 | | Transmission to Attorney Admissions Clerk. Transmitted re: Order on Motion to Appear Pro Hac Vice., to the Attorney Admissions Clerk for updating of Attorney Information. (dle,) (Entered: 01/10/2005) |
| 01/19/2005 | 18 | MOTION (FILED ON SERVICE DATE) for an order setting a hearing on such dates and times to be designated by the court when dfts shall move pursuant to Rule 60(b)(5) and (6) of the FRCP to vacate the consent judgment entered on 6/6/94 in this action, after presenting testimony and evidence at said hearing for the reasons that it is no longer equitable that the injunction should have prospective application and circumstances have changed since 1994. Document filed by Gotham Registry, Inc., Gotham Per Diem, Inc.. (dle,) (Entered: 01/24/2005) |
| 01/19/2005 | 19 | Response of Dft Gotham, Registry, Inc. and its president Caroline Barrett, to petition for adjudication of civil contempt with counterclaim Document filed by Gotham Registry, Inc.. (dle,) (Entered: 01/24/2005) |
| 01/19/2005 | 20 | Dft Gotham Registry, Inc.'s memorandum of law in response to plaintiff's petition for adjudication of civil contempt and in support of counterclaim for vacating the judgment. Document filed by Gotham Registry, Inc.. (dle,) (Entered: 01/24/2005) |
| 01/28/2005 | 21 | REPLY BRIEF re: [18] MOTION (FILED ON SERVICE DATE) for Leave to File. Document filed by U.S. Department of Labor. (kke,) (Entered: 02/08/2005) |
| 04/07/2005 | | Minute Entry for proceedings held before Judge Louis L. Stanton : Pretrial Conference held on 4/7/2005. Joint PTO due 10/17/05. (cd,) (Entered: 04/14/2005) |
| 04/07/2005 | | Set/Reset Scheduling Order Deadlines: Final Pretrial Conference set for 10/21/2005 11:30 AM before Judge Louis L. Stanton. (cd,) (Entered: 04/14/2005) |
| 04/12/2005 | 22 | SCHEDULING ORDER: Counsel having appeared before me at a conference on 4/8/2005: Final Pretrial Conference set for 10/21/2005 11:30 AM before Judge Louis L. Stanton. The plaintiff shall submit a Proposed Pretrial Order to the defendant by 9/16/2005. Pretrial Order to be submitted to chambers in the form perscribed in this Court's standing orders, together with trial briefs and either proposed voir dire questions and proposed jury charges if this case is to be tried before a jury, or proposed findings of fact and conclusions of law if it is not due by before noon on 10/17/2005. No extensions of these deadlines will be allowed without a showing of good cause not foreseeable at the date of this order. Failure to comply with the terms of this order may constitute grounds for denial of requested relief, dismissal of the action or defenses, the entry of judgment by default, or such other actions as may be just in the circumstances. (Signed by Judge Louis L. Stanton on 4/8/2005) copies mailed by chambers.(jsa,) (Entered: 04/13/2005) |
| 09/08/2005 | | Minute Entry for proceedings held before Judge Louis L. Stanton : Pretrial Conference held on 9/8/2005. (jma,) (Entered: 09/22/2005) |
| 10/17/2005 | 23 | PRETRIAL MEMORANDUM. Document filed by Lynn Martin.(cd,) (Entered: 10/24/2005) |
| 10/17/2005 | 24 | PRETRIAL MEMORANDUM, fld by deft Gotham Registry. (cd,) (Entered: 10/24/2005) |
| 10/17/2005 | 25 | Expert Witness Report of Madonna Stack, fld by deft Gotham. Document filed by Gotham Per Diem, Inc.. (cd,) (Entered: 10/24/2005) |
| 10/21/2005 | | Minute Entry for proceedings held before Judge Louis L. Stanton : Pretrial Conference held on 10/21/2005. Next Conference set for 12/9/05 at 3:30 p.m. (db,) (Entered: 10/24/2005) |
| 12/09/2005 | | Minute Entry for proceedings held before Judge Louis L. Stanton : Pretrial Conference held on 12/9/2005; non-jury trial set for 3/20/06 and final ptc set for 3/17/06 at 3:30 pm. (cd,) (Entered: 12/13/2005) |
| 02/15/2006 | 26 | NOTICE OF CHANGE OF ADDRESS by Barry A. Furman on behalf of Gotham Per Diem, Inc., Gotham Registry, Inc.. New Address: Kaplin Stewart Meloff Reiter & Stein, P.C.,Meeting Corporate Center Union, 910 Harvest Drive, P.O. Box 3037, Blue Bell, PA, 19422-0765, (610) 941-2529. (jmi,) (Entered: 02/22/2006) |
| 02/25/2006 | 27 | MOTION (FILED ON SERVICE DATE) to Preclude defendant's proffered expert from testifying. Document filed by Elaine L. Chao. (jco,) (Entered: 02/28/2006) |
| 02/28/2006 | 28 | RESPONSE to Motion re: [27] MOTION (FILED ON SERVICE DATE) to Preclude. Document filed by Gotham Registry, Inc.. (jco,) (Entered: 02/28/2006) |
| 02/28/2006 | 29 | PLAINTIFF'S PRE-TRIAL BRIEF IN SUPPORT OF [27] MOTION (FILED ON SERVICE DATE) to Preclude. Document filed by Elaine L. Chao.(jco,) (Entered: 02/28/2006) |
| 03/03/2006 | 30 | DEPOSITION of Madonna C. Stack.(jco,) (Entered: 03/09/2006) |
| 03/08/2006 | | MEMO ENDORSEMENT on re: [27] MOTION to Preclude filed by Elaine L. Chao. Having considered this application, and Gotham's submissions in opposition, this motion is DENIED. Some, if not all, of Ms. Stack's testimony appears to be admissible. SO ORDERED. (Signed by Judge Louis L. Stanton on 3/6/06) (kco,) (Entered: 03/08/2006) |
| 03/17/2006 | | Minute Entry for proceedings held before Judge Louis L. Stanton : Final Pretrial Conference held on 3/17/2006. Judge's Decision: Non-Jury trial 3/20/06 @ 11:00. (jco,) (Entered: 03/27/2006) |
| 03/20/2006 | | MEMORANDUM TO THE DOCKET CLERK: Hearing begun and continued 3/20/06 & concluded. Judge's Decision: See order dated 3/20/06. (jco,) (Entered: 03/27/2006) |

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| 03/23/2006 | 31 ORDER that for the reasons stated in open court the petition by the Secretary of Labor to hold the respondent in contempt and to direct the manner of its record keeping is denied. respondents' counterclaim to dissolve the 6/6/94 Final Consent Judgment is also denied. (Signed by Judge Louis L. Stanton on 3/20/06) (dle,) (Entered: 03/23/2006) |
| 04/20/2006 | 32 (Corrected) TRANSCRIPT of proceedings held on March 20, 2006 before Judge Louis L. Stanton. (dj,) Modified on 4/20/2006 (dj,). (Entered: 04/20/2006) |
| 05/18/2006 | 33 NOTICE OF APPEAL from [31] Order. Document filed by Elaine L. Chao. Copies of Notice of Appeal mailed to Attorney(s) of Record: Kaplin Stewart Meloff Reitere & Stein. (tp,) (Entered: 05/19/2006) |
| 05/18/2006 | Appeal Remark as to [33] Notice of Appeal filed by Elaine L. Chao. NO FEE, USA. (tp,) (Entered: 05/19/2006) |
| 05/19/2006 | Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: [33] Notice of Appeal. (tp,) (Entered: 05/19/2006) |
| 05/19/2006 | Transmission of Notice of Appeal to the District Judge re: [33] Notice of Appeal. (tp,) (Entered: 05/19/2006) |

United States District Court for
the Southern District of New York

Date August 15, 2006

ELAINE L. CHAO, Secretary of Labor,
U.S. Department of Labor
Plaintiff

U.S.C.A. # 06-2432-cv

U.S.D.C. # 92-6381

-v-

D.C. JUDGE Stanton

GOTHAM REGISTRY, INC.
Defendant

Clerk's Certificate

I, J. Michael McMahon, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered __
_ Through ___, inclusive, constitutes the Original record on appeal in the above entitled proceedings except for the following missing documents:

Date Filed

Document Description

| | |
|----------------------------|---|
| August 15, 2006 | Balance of file is in archives in Kansas. Will forward Supplemental index when file comes in from Kansas |
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In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York, this 15th Day of August In this year of our Lord, Two Thousand and Six, and the Independence of the United States this 231ST year.

J. Michael McMahon, Clerk

By _____
Deputy Clerk